

Appl. No. 10/657,585

Response dated December 16, 2005

Reply to Final Office Action of October 17, 2005

REMARKS

Applicant acknowledges receipt of the Final Office Action dated October 17, 2005, in which Claims 1-75 are pending, Claims 1-62 are elected claims under examination, and Claims 63-75 have been withdrawn as non-elected claims in the Application.

In the Final Office Action, Claims 1-3, 6-11, 13-28, 30, 32-36, 40-45, 47-49, 51-55, 57-60, and 62 stand rejected under 35 U.S.C. § 103 as being unpatentable over Hindin et al., U.S. Patent No. 3,993,572 ("Hindin"). Furthermore, Claims 4-5, 29, 37-38, 56, and 61 stand rejected under 35 U.S.C. § 103 as being unpatentable over *Hindin* in view of Bellussi et al., U.S. Patent No. 6,596,667 ("Bellussi"). In addition, the Examiner has objected to Claims 12, 31, 39, 46, and 50 as being dependent upon a rejected base claim but allowable if rewritten in independent form to include the limitations of the base and any intervening claims.

I. Status of the Claims

By this Response, Claims 1, 21, 32, 37-38, 49, 63 and 75 are currently amended.

Claims 63-71, 74 and 75 are sought to be rejoined based on MPEP § 821.04.

Claims 12, 31, 33, 36, 39-41, 50 and 72-73 are canceled.

Claims 76-78 are new.

Claims 1-11, 13-30, 32, 34, 35, 37, 38, 42-49, 51-71 and 74-78 are currently pending.

II. Amendment to Claim 1 with allowable subject matter renders Claims 1-11 and 13-20 allowable.

Claims 1-3, 6-11, and 13-20 were rejected as being obvious over *Hindin*, and Claims 4-5 were rejected as being obvious over *Hindin* in view of *Bellussi*. Claim 1 is an independent claim upon which rejected Claims 2-11 and 13-20 depend, and upon which objected Claim 12 depends.

By this Response, Applicant amended Claim 1 to contain all the limitations of original Claim 12 to which the Examiner objected. Applicant believes that currently-amended Claim 1 is in allowable form. In addition, Applicant canceled Claim 12 to avoid duplication.

Applicant submits that rejected Claims 2-11 and 13-20 which depend from currently-amended Claim 1 must also be allowable as they carry with them all the limitations of such independent claim.

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Thus, Applicant respectfully requests the Examiner to remove the rejections to Claims 1-11 and 13-20 and to allow them.

III. Amendment to Claim 21 with allowable subject matter renders Claims 21-30 allowable.

Claims 21-28 and 30 were rejected as being obvious over *Hindin*, and Claim 29 was rejected as being obvious over *Hindin* in view of *Bellussi*. The Examiner objected to Claim 31. Claim 21 is an independent claim upon which rejected Claims 22-30 depend and upon which objected Claim 31 depends.

By this Response, Applicant amended Claim 21 to contain all the limitations of original Claim 31 to which the Examiner objected. Applicant believes that currently-amended Claim 21 is in allowable form. In addition, Applicant canceled Claim 31 to avoid duplication.

Since Claims 22-28 and 30 (rejected as obvious over *Hindin*) and Claim 29 (rejected as obvious over *Hindin* in view of *Bellussi*) depend from currently-amended Claim 21, Applicant submits that Claims 22-30 must also be allowable as they carry with them all the limitations of such independent Claim 21.

Thus, Applicant respectfully requests the Examiner to remove the rejections to Claims 21-30 and to allow them.

IV. Amendment to Claim 32 with allowable subject matter renders Claims 32, 34, 35, 37, 38, 42-48 and 76 allowable.

Claims 32-36, 40-45, 47 and 48 were rejected as being obvious over *Hindin*, and Claims 37-38 were rejected as being obvious over *Hindin* in view of *Bellussi*. The Examiner objected to Claims 39 and 46. Claim 32 is an independent claim upon which rejected Claims 32-38, 40-45, 47 and 48 depend; and further upon which objected Claims 39 and 46 depend.

By this Response, Applicant amended Claim 32 to contain all the limitations of original Claim 39 to which the Examiner objected. Applicant believes that currently amended Claim 32 is in allowable form. Thus, Applicant respectfully requests the Examiner to remove the rejection to Claim 32.

The pending claims which remain dependent from Claim 32 are now Claims 34, 35, 37, 38,

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42-48 and 76, as a result of the following actions by Applicant:

- Applicant canceled Claim 39 and Claim 36 (from which previously presented Claim 39 depends) in order to avoid duplication.
- Applicant amended Claims 37 and 38 to change the dependency from a now-canceled Claim 36 to currently-amended Claim 32.
- Applicant canceled Claims 33, 40 and 41 (which depends from Claim 40), as these claims cover a broader scope or other embodiments of the invention which are not covered by the scope of the currently-amended independent Claim 32 from which they ultimately depend.
- Applicant added new Claims 76 which depends from Claim 32 to add an embodiment to which the Applicant is entitled. Claim 76 recites "wherein the catalyst comprises between about 5 and about 40% cobalt" which is supported by the specification and claims as originally filed, for example by at least original Claim 56 and paragraph [0058].

Applicant believes that the amendment of Claim 32 renders its rejected dependent Claims 34, 35, 37, 38, 42-45, 47 and 48 patentable, as they carry with them all the limitations of such independent Claim 32. Thus, Applicant respectfully requests the Examiner to remove the rejections to Claims 34, 35, 37, 38, 42-45, 47 and 48.

Similarly, since new Claim 76 and objected Claim 46 depend from currently-amended Claim 32 which is allowable, Applicant submits that Claims 46 and 76 must also be allowable as each carries all the limitations of such independent claim.

For the reasons stated above, Applicant respectfully requests the Examiner to allow Claims 32, 34, 35, 37, 38, 42-48, and 76.

V. Amendment to Claim 49 with allowable subject matter renders Claims 49, 51-62, 77 and 78 allowable.

Claims 49, 51-55, 57-60 and 62 were rejected as being obvious over *Hindin*, and Claims 56 and 61 were rejected as being obvious over *Hindin* in view of *Bellussi*. The Examiner objected to Claim 50. Claim 49 is an independent claim upon which rejected Claims 51-62 depend; and further upon which objected Claim 50 depends.

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By this Response, Applicant amended Claim 49 to contain all the limitations of original Claim 50 to which the Examiner objected. Applicant believes that currently amended Claim 49 is in allowable form. Thus, Applicant respectfully requests the Examiner to remove the rejection to Claim 49.

Applicant further canceled Claim 50 in order to avoid duplication.

Applicant believes that the amendment of Claim 49 renders its rejected dependent Claims 51-62 patentable, as they carry with them all the limitations of such independent Claim 49. Thus, Applicant respectfully requests the Examiner to remove the rejections to Claims 51-62, and to allow them.

Applicant further added new Claims 77 and 78 which depend from Claim 49 via intervening Claim 55 in order to add embodiments to which the Applicant is entitled. Claim 77 recites "wherein the cobalt metal is dispersed in crystallites having an average size of between about 1 nm and about 20 nm", which is supported by the specification and claims as originally filed, for example by at least paragraph [0057]. Claim 78 recites "wherein the cobalt metal is dispersed in crystallites having an average size of between about 5 nm and about 20 nm", which is supported by the specification and claims as originally filed, for example by at least original Claim 39 and paragraph [0057]. Since new Claims 77 and 78 depend ultimately from currently-amended Claim 49 which is allowable, Applicant submits that Claims 77 and 78 must also be allowable, as each carries at least all the limitations of such independent claim.

For the reasons stated above, Applicant respectfully requests the Examiner to allow Claims 49, 51-62, 77 and 78.

VI. Process Claims 63-71, 74 and 75 should be rejoined as they are allowable by amendment to Claim 63 with allowable catalyst composition.

Claim 63 and its dependent Claims 64-75 are pending in the application. Claims 63-75 were withdrawn as non-elected claims. Original Claims 63-75 relate to a process for making hydrocarbons which uses a catalyst comprising all of the limitations of independent catalyst Claim 32 as originally filed.

In this response, catalyst Claim 32 is amended to include the limitation from objected catalyst Claim 39 which renders Claim 32 in allowable form. Applicant submits that this amendment

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submitted in response to the Final Office Action dated October 17, 2005 places all the pending elected catalyst Claims 32, 34, 35, 37, 38, 42-48 and 76 in condition for allowance.

Thus, based on MPEP § 821.04, Applicant seeks to rejoin most of the process claims which were withdrawn, for they include the use of this novel non-obvious catalyst. As such, Applicant amended the independent process Claim 63 to narrow the catalyst composition based on cobalt crystallite average size, which is the same recitation used to narrow catalyst Claim 32, in order for the currently-amended process Claim 63 to carry all of the limitations pertaining to the catalyst composition of currently-amended Claim 32 which is allowable.

Applicant further amended Claim 66 by removing the word "mostly" to clarify the claim language and to prevent any possible issue under 35 U.S.C. § 112.

Applicant further amended Claim 75 by changing "method of" to "process according to" in the preamble to prevent any possible issue under 35 U.S.C. § 112, and this amendment does not modify the scope of the claim.

Applicants further canceled withdrawn process Claims 72 and 73 (dependent from Claim 72), as they cover other catalyst embodiments which are not included in the scope of currently-amended allowable Claim 63.

Applicant contends that this amendment does not raise new issues that would require further consideration (such as issues under 35 U.S.C. §101 or §112, first paragraph) necessitated by the rejoinder of withdrawn non-elected process Claims 63-71, 74 and 75.

Thus, Applicant respectfully requests the withdrawal of the Restriction Requirement and allowance of these rejoined process Claims 63-71, 74 and 75.

VII. Conclusion

Applicant believes that elected Claims 1-11, 13-30, 32, 34, 35, 37, 38, 42-48, 49, 51-62 and 76-78 are now allowable over the art of record and respectfully request reconsideration and allowance of these claims. Applicants submit that *no new matter was introduced* by way of amendment to the elected claims; and that *the amendment does not raise new issues* that would require further consideration and/or search, since the pending elected independent Claims 1, 21, 32, and 49 carry all the limitations of four original objected Claims 12, 31, 39 and 50, respectively.

Applicants further submit that the cancellation of a total number of ten (10) claims is

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sufficient to cover the additional three (3) new claims.

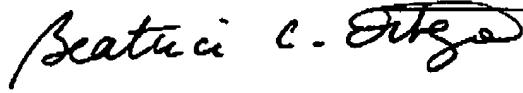
Based on MPEP §821.04, Applicant respectfully requests the rejoinder of withdrawn non-elected Claim 63 and its dependent Claims 64-71, 74 and 75, since currently-amended Claim 63 recites all of the same catalyst limitations as allowable catalyst Claim 32 in its current amended form. Applicant believes that rejoined Claims 63-71, 74 and 75 are allowable over the art of record and are free from 35 U.S.C. §101 or §112, first paragraph issues. Applicant respectfully requests the withdrawal of the Restriction Requirement and allowance of these rejoined Claims 63-71, 74 and 75.

For these reasons, Applicants believe that this amendment places the application in condition for allowance. Applicants respectfully solicit this amendment to be entered in the examination of this application for the allowance of all pending elected Claims 1-11, 13-30, 32, 34, 35, 37, 38, 42-49, 51-62 and 76-78, and for the allowance of all pending rejoined Claims 63-71, 74 and 75.

If a petition for extension of time is necessary in order for this paper to be deemed timely filed, please consider this a petition therefore. If any fee is due, please appropriately charge such fee to Deposit Account Number 16-1575 of ConocoPhillips Company, Houston, Texas.

Should there be any remaining issue which the Examiner believes would possibly be resolved by a conversation, the Examiner is invited to call the undersigned at (281) 293-4751 so that further delay in a Notice of Allowance can be avoided.

Respectfully submitted,



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